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EXTRAORDINARY

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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 21st March, 2006:—

I

BILL NO. XXIX OF 2006

A Bill further to amend the Code of Criminal Procedure (Amendment) Act, 2005.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Amending Act, 2006.

Short title.

2. In the Code of Criminal Procedure (Amendment) Act, 2005, in section 1, in sub-section (2), after the words “by notification in the Official Gazette, appoint”, the words “; and different dates may be appointed for different provisions of this Act” shall be inserted.

Amendment of section 1 of Act 25 of 2005.

STATEMENT OF OBJECTS AND REASONS

Sub-section (2) of section 1 of the Code of Criminal Procedure (Amendment) Act, 2005 (25 of 2005) provides that save as otherwise provided the provisions of the Act shall come into effect on the date which the Central Government may appoint through a notification. Section 3 of the said Act provides that the amendments to section 24 shall be deemed to have come into force retrospectively with effect from the 18th day of December, 1978. For remaining provisions, issue of the said notification bringing the Act into force has been kept in abeyance because a number of representations from various lawyers' organisations, mainly from the State of Tamil Nadu, were received protesting against some of the provisions of the Act.

2. Different provisions of the Act cannot be brought into force on different dates in the absence of a specific provision to that effect. Considering the fact that the Code of Criminal Procedure (Amendment) Act, 2005 contains several important provisions for streamlining and reforming the law of criminal procedure, it is felt that withholding implementation of the said Act due to only a few controversial provisions is not proper. Accordingly, it has been decided to give effect to those provisions of the Act which have not been objected to by a large section.

3. Therefore, it is necessary to amend sub-section (2) of section 1 of the Code of Criminal Procedure (Amendment) Act, 2005 to empower the Central Government to notify different dates for implementation of various provisions of the said Act.

4. The Bill seeks to achieve the above objective.

SHIVRAJ V. PATIL.

II

BILL NO. XXX OF 2006

A Bill to consolidate and amend the law relating to the governance of the Assam Rifles, an Armed Force of the Union for ensuring the security of the borders of India, to carry out Counter Insurgency Operations in the specified areas and to act in aid of civil authorities for the maintenance of the law and order and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Assam Rifles Act, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title
and
commencement.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “active duty”, in relation to a person subject to this Act, means any duty as a member of the Force during the period in which such person is attached to, or forms part of, a unit of the Force—

(i) which is engaged in operations against an enemy or an insurgent or a terrorist or any person in arms against the Union, or

(ii) which is operating at a picket or engaged on patrol or other guard duty along the borders of India,

and includes duty by such person during any period declared by the Central Government, by notification in the Official Gazette, as a period of active duty with reference to any area in which or under any provision of this Act or for the purposes of any other law for the time being in force, any person or class of persons subject to this Act may be serving;

(b) “Assam Rifles Court” means a Court referred to in section 86;

(c) “battalion” means a unit of the Force constituted as battalion by the Central Government;

(d) “Chief Law Officer” and “Law Officer” mean, respectively, the Chief Law Officer and a Law Officer of the Force appointed by the Central Government;

(e) “civil offence” means an offence which is triable by a criminal court;

(f) “civil prison” means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force; 9 of 1894.

(g) “Commandant”, when used in any provision of this Act with reference to any unit of the Force, means the officer whose duty it is under the rules or regulations or in the absence of such rules or regulations, by custom of the service, to discharge with respect to that unit, the functions of a Commandant in regard to matters of the description referred to in that provision;

(h) “criminal court” means a court of ordinary criminal justice in any part of India;

(i) “deputation” means a period for which the services of a person belonging to any department of the Central Government are placed at the disposal of the Director-General;

(j) “Director-General” and “Additional Director-General” mean, respectively, the Director-General and Additional Director-General of the Force appointed under sub-sections (1) and (2) of section 5, respectively;

(k) “enemy” includes all armed mutineers, armed rebels, armed rioters, pirates, terrorists and any person in arms against whom it is the duty of any person subject to this Act to take action;

(l) “enrolled person” means an under-officer or other person enrolled under this Act;

(m) “Force” means the Assam Rifles;

(n) “Force custody” means the arrest or confinement of a member of the Force according to rules and includes any military custody of such member under the Army Act, 1950; 46 of 1950.

(o) “Inspector-General” and “Deputy Inspector-General” mean, respectively, the Inspector-General and the Deputy Inspector-General of the Force appointed under sub-section (2) of section 5;

(p) "member of the Force" means an officer, a subordinate officer, an under-officer or other enrolled person and includes the persons on deputation;

(q) "notification" means a notification published in the Official Gazette;

(r) "offence" means any act or omission punishable under this Act and includes a civil offence;

(s) "officer" means a person appointed or in pay as an officer of the Force; but does not include a subordinate officer or an under-officer;

(t) "prescribed" means prescribed by rules made under this Act;

(u) "regulations" means the regulations made by the Central Government under this Act;

(v) "rule" means a rule made under this Act;

(w) "subordinate officer" means a person appointed or in pay as a Subedar Major, a Subedar or a Naib Subedar of the Force;

(x) "superior officer", when used in relation to a person subject to this Act, means—

(i) any member of the Force or a person on deputation to whose command such person is for the time being subject in accordance with the rules;

(ii) any officer of higher rank or class or of a higher grade in the same class,

and includes when such person is not an officer, a subordinate officer or an under-officer of higher rank, class or grade;

(y) "terrorist" means any person who, with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people, does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or fire-arms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature in such a manner, as to cause or is likely to cause death of, or injury to, any person or persons, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community;

(z) "under-officer" means a Warrant Officer, Havildar, Naik and Lance Naik of the Force;

(za) "unit" means any—

(i) battalion; or

(ii) regiment; or

(iii) training institution; or

(iv) Head Quarters of Deputy Inspector-General; or

(v) Head Quarters of Inspector-General; or

(vi) Head Quarters of Director-General,

of the Force and includes any other formation of the Force specified, by notification, by the Central Government.

(2) All words and expressions used and not defined in this Act but defined in the Indian Penal Code shall have the meanings assigned to them in that Code.

(3) In this Act, reference to any law not in force in the State of Jammu and Kashmir shall be construed as references to the corresponding law in force in that State.

Persons
subject to this
Act.

3.(1) The following persons (whether on deputation or otherwise employed) shall be subject to this Act, wherever they may be, namely:—

- (a) officers and subordinate officers; and
- (b) under-officers and other persons enrolled under this Act.

(2) Members of the Force in existence at the commencement of this Act shall be deemed to have been appointed or, as the case may be, enrolled as such under this Act.

(3) Notwithstanding anything contained in sub-section (1), any person who is employed in the Force on deputation from the regular Army as defined under clause (xxi) of section 3 of the Army Act, 1950 shall not be subject to this Act and shall, during the period of such deputation, be deemed to be subject to the Army Act, 1950:

46 of 1950.

Provided that such person in regard to his duties and discipline shall be deemed to be under the command of the member of the Force under whose command such person for the time being is placed:

Provided further that, in case of such person, for the purposes of his duties and discipline, the expression "active duty" defined in clause (a) of sub-section (1) of section 2 shall be deemed to be the "active service" as defined in clause (i) of section 3 of the Army Act, 1950 for taking any action against him under the provisions of the said Army Act.

46 of 1950.

(4) Any person who is not subject to this Act is posted for any service with the members of the Force or engaged to accompany with or to provide any service in any manner to the members of the Force in such—

- (i) camp;
- (ii) line of march;
- (iii) frontier post;
- (iv) active duty; or
- (v) counter insurgency operations,

as may be specified, by notification, by the Central Government in this behalf shall be deemed to be a member of the Force, till he is so posted or engaged in such corresponding rank as may be determined, by notification, by the Central Government for the purposes of this Act.

(5) Every person subject to this Act shall remain so subject until retired, discharged, released, removed or dismissed from the Force in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE FORCE AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE FORCE

Constitution
of Force.

4. (1) **There shall be an armed force of the Union called the Assam Rifles for ensuring the security of the borders of India, to carry out counter insurgency operations in the specified areas and to act in aid of civil authorities for the maintenance of law and order and the matters connected therewith.**

(2) Subject to the provisions of this Act, the Force shall be reconstituted in such manner as may be prescribed and the conditions of service of the members of the Force shall be such as may be prescribed.

5. (1) The general superintendence, direction and control of the Force shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules and regulations, the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director-General of the Force. Control, direction, etc.
- (2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Additional Director-General, Inspectors-General, Deputy Inspectors-General, Commandants and other officers as may be appointed by the Central Government.
6. (1) The persons to be enrolled to the Force, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed by the Central Government. Enrolment.
- (2) Notwithstanding anything contained in this Act and the rules and regulations, every person who has, for a continuous period of three months, been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Force shall be deemed to have been duly enrolled.
- (3) No person who is not a citizen of India shall, except by the consent of the Central Government signified in writing, be enrolled in the Force.
7. Every member of the Force shall be liable to serve in any part of India as well as outside India. Liability for service outside India.
8. No member of the Force shall be at liberty—
- (a) to resign his appointment during the term of his engagement; or
- (b) to withdraw himself from all or any of the duties of his appointment,
- except with the previous permission in writing of the prescribed authority. Resignation and withdrawal from the post.
9. Every person subject to this Act shall hold office during the pleasure of the President. Tenure of service under the Act.
10. Subject to the provisions of this Act and the rules and regulations, the Central Government may dismiss or remove from the service any person subject to this Act. Termination of service by Central Government.
11. (1) The Director-General, Additional Director-General or any Inspector-General may dismiss or remove from service or reduce to a lower grade or rank or the ranks any person subject to this Act other than an officer. Dismissal, removal or reduction by Director-General and by other officers.
- (2) An officer not below the rank of Deputy Inspector-General may dismiss or remove from the service any person under his command other than an officer or a subordinate officer of such rank or the ranks as may be prescribed.
- (3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank or the ranks any person under his command except an officer or a subordinate officer.
- (4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules and regulations.
12. A subordinate officer or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from service shall be furnished by the officer, to whose command he is subject, with a certificate in the language which is the mother-tongue of such person and also in Hindi and English language setting forth— Certificate of termination of service.
- (a) the authority terminating his service;
- (b) the cause for such termination; and
- (c) the full period of his service in the Force.

Restrictions
on right to
form
associations,
freedom of
speech, etc.

13. (1) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations; or

(b) be a member of, or be associated in any way with, any society, institution, association or organisation that is not recognised as part of the Force or is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the *bonafide* discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organised by any body or persons for any political purposes or for such other purposes as may be prescribed.

CHAPTER III

SERVICE PRIVILEGES

Authorised
deduction only
to be made
from pay.

14. The pay of every person subject to this Act due to him as such under any rules or regulations for the time being in force shall be paid without any deduction other than the deductions authorised by or under this Act or any other Act.

Remedy of
aggrieved
persons other
than officers.

15. (1) Any person subject to this Act other than an officer who deems himself wronged by any officer or subordinate officer may complain to the officer under whose command or orders he is serving.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or when necessary, refer the complaint to superior authority.

(4) Every such complaint shall be preferred in such manner as may, from time to time, be specified by the Director-General.

(5) The Central Government may revise any decision by the Director-General under sub-section (2), but, subject thereto, the decision of the Director-General shall be final.

Remedy of
aggrieved
officers.

16. Any officer who deems himself wronged by his Commandant or any superior officer and who on due application made to his Commandant or such superior officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may, from time to time, be specified by the Director-General.

Immunity
from
attachment.

17. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty shall be seized, nor shall, the pay and allowances of any such person or any part thereof, be attached, by direction of any civil or revenue court or any revenue officer in satisfaction of any decree or order enforceable against him.

18. (1) No person subject to this Act shall, so long as he belongs to the Force, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer, except with the prior consent of the Central Government.

Immunity from arrest for debt.

(2) The Judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no court-fee shall be payable by the complainant.

19. (1) No Presiding Officer or member of an Assam Rifles Court, no Law Officer, no party to any proceeding before an Assam Rifles Court, or his legal practitioner or agent and no witness acting in obedience to a summons to attend an Assam Rifles Court shall, while proceeding to, attending or returning from, an Assam Rifles Court, be liable to arrest under civil or revenue process.

Immunity of persons attending Assam Rifles Court from arrest.

(2) If any such person is arrested under any such process, he may be discharged by order of the Assam Rifles Court.

20. The rights and privileges specified in the preceding section of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons subject to this Act generally by any other law for the time being in force.

Savings of rights and privileges under other law.

CHAPTER IV

OFFENCES

21. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in relation to the enemy and punishable with death.

(a) shamefully abandons or delivers up any post, place or guard, committed to his charge or which it is his duty to defend; or

(b) intentionally uses any means to compel or induce any person subject to this Act or to army, naval, air force law or any member of other armed forces to abstain from acting against the enemy or to discourage such person from acting against the enemy; or

(c) in the presence of enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

(f) in time of active operation against the enemy intentionally occasions a false alarm in action, camp, quarters or spreads or causes to be spread reports calculated to create alarm or despondency; or

(g) in time of action leaves his Commandant or other superior officer or his post, guard, picket, patrol or party without being regularly relieved or without leave; or

(h) having been captured by the enemy or made a prisoner of war, voluntarily serves with or aids the enemy; or

(i) knowingly harbours or protects an enemy not being a prisoner; or

(j) being a sentry in time of active operation against the enemy or alarm, sleeps upon his post or is intoxicated; or

(k) knowingly does any act calculated to imperil the success of the Force or the army, naval, air forces of India or any other armed forces of the Central Government co-operating therewith or any part of such forces,

shall, on conviction by an Assam Rifles Court, be liable to suffer death or such less punishment as is in this Act mentioned.

Offences in relation to the enemy and not punishable with death.

22. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) is taken prisoner or captured by the enemy, by want of due precaution or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner or so captured fails to rejoin his service when able to do so; or

(b) without due authority holds correspondence with, or communicates intelligence to, the enemy or any person in league with the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to discover it immediately to his Commandant or other superior officer,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Offences punishable more severely on active duty than at other times.

23. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) forces a safeguard or forces or uses criminal force to a sentry; or

(b) breaks into any house or other place in search of plunder; or

(c) being a sentry, sleeps upon his post or is intoxicated; or

(d) without orders from his superior officer, leaves his guard, picket, patrol or posts; or

(e) intentionally or through neglect occasions a false alarm in camp or quarters, or spreads or causes to be spread reports calculated to create unnecessary alarm or despondency; or

(f) makes known the parole, watchword or countersign to any person not entitled to receive it; or

(g) knowingly gives a parole, watchword or countersign different from what he received,

shall, on conviction by an Assam Rifles Court,

(A) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(B) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Mutiny.

24. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) begins, incites, causes or conspires with any other person to cause any mutiny in the Force or in the army, naval or air forces of India or any forces co-operating therewith; or

(b) joins in any such mutiny; or

(c) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commandant or other superior officer; or

(e) endeavours to seduce any person in the Force or in the army, naval or air forces of India or any forces cooperating therewith from his duty or allegiance to the Union,

shall, on conviction by an Assam Rifles Court, be liable to suffer death or such less punishment as is in this Act mentioned.

25. (1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by an Assam Rifles Court,—

Desertion and
aiding
desertion.

(a) if he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(b) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(3) Any person subject to this Act who, being cognisant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

Absence
without
leave.

(a) absents himself without leave; or

(b) without sufficient cause, overstays leave granted to him; or

(c) being on leave of absence and having received information from the appropriate authority that any battalion or part thereof or any other unit of the Force, to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(d) without sufficient cause, fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(e) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(f) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(g) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

Striking or
threatening
superior
officers.

(a) uses criminal force to or assaults his superior officer; or

(b) uses threatening language to such officer; or

(c) uses insubordinate language to such officer,

shall, on conviction by an Assam Rifles Court,—

(A) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(B) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of an offence specified in clause (c), the imprisonment shall not exceed five years.

Disobedience
to superior
officer.

28. (1) Any person subject to this Act who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by an Assam Rifles Court,—

(a) if he commits such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if he commits such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Insubordination
and
obstruction.

29. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(b) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, camp or quarters; or

(e) neglects to obey any general, local or other order; or

(f) impedes the Force Police referred to in section 85 or any person lawfully acting on its behalf, or when called upon, refuses to assist in the execution of his duty a Force Police or any person lawfully acting on his behalf, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (d) and (e), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

Fraudulent
enrolment.

30. Any person subject to this Act who knowingly attempts to get enrolled or enrolls any other person who does not fulfil the conditions enabling him to be enrolled, shall, on conviction by the Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

False answers
on enrolment.

31. Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set-forth in the prescribed form

of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

32. Any officer, subordinate officer or an under-officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by an Assam Rifles Court, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

Unbecoming conduct.

33. Any person subject to this Act who commits any of the following offences, that is to say,—

Certain forms of disgraceful conduct.

(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(b) malingers, or feigns or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

34. Any officer, subordinate officer or an under-officer who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Ill-treating a subordinate.

35. Any person subject to this Act who is found in a state of intoxication whether on duty or not, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

Intoxication.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

Permitting escape of person in custody.

(a) when in command of guard, picket, patrol or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by an Assam Rifles Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

37. Any person subject to this Act who commits any of the following offences, that is to say, —

Irregularity in connection with arrest or confinement.

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to Force custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

Escape from custody.

38. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Offences in respect of property.

39. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits theft of any property belonging to the Government, or to any Force mess, band or institution, or to any person subject to this Act; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Extortion and corruption.

40. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits extortion; or

(b) without proper authority extracts from any person money, provisions or service,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Making away with equipment.

41. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) makes away with, or is concerned in making away with any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(b) loses by neglect anything mentioned in clause (a); or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (a), to ten years, and in the case of the offences specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

Injury to property.

42. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) destroys or injures any property mentioned in clause (a) of section 41 or any property belonging to any Force mess, band or institution, or to any person subject to this Act; or

(b) commits any act which causes damage to, or destruction of, any property of the Government by fire; or

(c) kills, injures, makes away with, ill-treats or loses any animal entrusted to him, shall, on conviction by an Assam Rifles Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

43. Any person subject to this Act who commits any of the following offences, that is to say,—

False accusations.

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in making complaint against any person subject to this Act, makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

44. Any person subject to this Act who commits any of the following offences, that is to say,—

Falsifying official document and false declarations.

(a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(b) in any document of the description mentioned in clause (a), knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(c) knowingly and with intent to injure any person or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(d) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

45. Any person subject to this Act who commits any of the following offences, that is to say,—

Signing in blank and failure to report.

(a) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; or

(b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

46. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences relating to Assam Rifles Court.

(a) being duly summoned or ordered to attend as a witness before an Assam Rifles Court, wilfully or without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by an Assam Rifles Court to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by an Assam Rifles Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; or

(e) is guilty of contempt of the Assam Rifles Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Court,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

False
evidence.

47. Any person subject to this Act who, having been duly sworn or affirmed before any Assam Rifles Court or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Unlawful
detention of
pay

48. Any officer, subordinate officer or an under-officer who, having received the pay of a person subject to this Act, unlawfully detains or refuses to pay the same when due, shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Violation of
good order
and discipline.

49. Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Force shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Miscellaneous
offences.

50. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being in command at any post or on the march, and receiving a complaint that anyone under his command has beaten or otherwise mal-treated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(b) by defiling any place of worship, or otherwise, intentionally insults the religion, or wounds the religious feelings of any person; or

(c) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(d) being below the rank of subordinate officer, when off duty, appears without proper authority, in or about camp, or when going to, or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapons; or

(e) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(f) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall, on conviction by an Assam Rifles Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

51. Any person subject to this Act who attempts to commit any of the offences specified in sections 21 to 50 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by an Assam Rifles Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

Attempt.

(a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if the offence attempted to be committed is punishable with imprisonment to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

52. Any person subject to this Act who abets the commission of any of the offences specified in sections 21 to 50 (both inclusive) shall, on conviction by an Assam Rifles Court, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences that have been committed.

53. Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 21, 24 and clause (a) of sub-section (1) of section 25 shall, on conviction by an Assam Rifles Court, if that offence, be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years of such less punishment as is in this Act mentioned.

Abetment of offences punishable with death and not committed.

54. Any person subject to this Act who abets the commission of any of the offences specified in sections 21 to 50 (both inclusive) and punishable with imprisonment shall, on conviction by an Assam Rifles Court, if that offence, be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences punishable with imprisonment and not committed.

55. Subject to the provisions of section 56, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be tried by an Assam Rifles Court and, on conviction, be punishable as follows, that is to say,—

Civil offences.

(a) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(b) in any other case, he shall be liable to suffer any punishment assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as in this Act mentioned.

56. A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence against this Act and shall not be tried by an Assam Rifles Court, unless he commits any of the said offences,—

Civil offences not triable by an Assam Rifles Court.

(a) while on active duty; or

(b) at any place outside India; or

(c) at any place specified by the Central Government, by notification in this behalf.

CHAPTER V

PUNISHMENTS

Punishment
awardable by
Assam Rifles
Courts.

57. (1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by the Assam Rifles Courts, according to the scale following, that is to say,—

- (a) death;
- (b) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Force custody;
- (c) dismissal from the service;
- (d) compulsory retirement from service;
- (e) imprisonment for a term not exceeding three months in Force custody except in case of officers and subordinate officers;
- (f) reduction to the ranks or to a lower rank or grade or place in the list of their rank in the case of an under-officer;
- (g) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion;
- (h) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;
- (i) fine;
- (j) severe reprimand or reprimand except in the case of persons below the rank of an under-officer;
- (k) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active duty;
- (l) forfeiture in the case of person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;
- (m) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.

(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Alternative
punishments
awardable by
Assam Rifles
Courts.

58. Subject to the provisions of this Act, an Assam Rifles Court may, on convicting a person subject to this Act of any of the offences specified in sections 21 to 54 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu thereof, any of the punishments lower in the scale set out in section 57 regard being had to the nature and degree of the offence.

Combination
of
punishments.

59. A sentence of an Assam Rifles Court may award in addition to, or without any one other punishment, the punishment specified in clause (c) of sub-section (1) of section 57, and any one more of the punishments specified in clauses (f) to (m) (both inclusive) of that sub-section.

Retention in
the Force of a
person
convicted on
active duty.

60. When on active duty, any enrolled person has been sentenced by an Assam Rifles Court to dismissal or to imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of imprisonment, if any.

Punishments
otherwise than
by Assam
Rifles Courts.

61. Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of an Assam Rifles Court in the manner stated in sections 62, 64, 65 and 66.

62. Subject to the provisions of section 63, a Commandant or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer or a subordinate officer or a Warrant Officer who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the following punishments, that is to say,—

Minor
punishments.

- (a) imprisonment in Force custody up to twenty-eight days;
- (b) detention up to twenty-eight days;
- (c) confinement to the lines up to twenty-eight days;
- (d) extra guards or duties;
- (e) deprivation of any special position or special emoluments or any acting rank or reduction to a lower grade of pay;
- (f) forfeiture of good service and good conduct pay;
- (g) severe reprimand or reprimand;
- (h) fine upto fourteen days' pay in any one month;
- (i) deduction from his pay and allowance of any sum required to make good such compensation for any expense, loss, damage or destruction caused by him to the Central Government, or to any building or property as may be awarded by his Commandant.

63. (1) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of section 62, the punishments specified in clause (c) or clause (d) shall take effect only at the end of the punishment specified in clause (a) or clause (b).

Limit of
punishments
under section
62.

(2) When two or more of the punishments specified in the said clause (a), (b) and (c) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(3) The punishments specified in the said clauses (a), (b) and (c) shall not be awarded to any person who is of the rank of an under-officer or was at the time of committing the offence for which he is punished of such rank.

(4) The punishments specified in clause (g) of section of 62 shall not be awarded to any person below the rank of an under-officer.

64. (1) An officer not below the rank of the Deputy Inspector-General or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against an officer below the rank of a Deputy Commandant and of any rank of subordinate officer and of a rank of Warrant Officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

Punishment
of
officers below
the rank of
Deputy
Commandant,
subordinate
officers and
Warrant
Officer by
Deputy
Inspectors-
General and
others.

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by an Assam Rifles Court;

(b) severe reprimand or reprimand;

(c) stoppage of pay and allowance until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded, appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

Punishment of officers below the rank of a Commandant, subordinate officers and Warrant Officer by the Inspectors-General and others.

65. (1) An officer not below the rank of the Inspector-General or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against an officer below the rank of a Commandant and any subordinate officer and a Warrant Officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by an Assam Rifles Court;

(b) severe reprimand or reprimand;

(c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

Punishment of subordinate officers and Warrant Officer by Commandant, etc.

66. A Commandant or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against any subordinate officer or a Warrant Officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

(a) severe reprimand or reprimand;

(b) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good:

Provided that the punishment mentioned under clause (a) shall only be awarded by an officer not below the rank of Commandant authorised by the Director-General to award such punishment.

Collective fines.

67. (1) Whenever any weapon or part of a weapon, or ammunition, forming part of the equipment of a unit of the Force, is lost or stolen, an officer not below rank of the Commandant of a battalion may, after making such inquiry as he thinks fit and subject to the rules and regulations, impose a collective fine upon the subordinate officer, under-officer and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VI

PENAL DEDUCTIONS

Deductions from pay and allowances of officers.

68. The following penal deductions may be made from the pay and allowances of an officer, that is to say,—

(a) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;

(b) all pay and allowances for every day while he is in custody or under suspension from duty on a charge for an offence for which he is afterwards convicted by a criminal court or an Assam Rifles Court or by an officer exercising authority under section 64 or section 65;

(c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(d) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by an Assam Rifles Court by whom he is convicted of such offence or by an officer exercising authority under section 64 or section 65;

(e) all pay and allowances ordered by an Assam Rifles Court to be forfeited or stopped;

(f) any sum required to pay a fine awarded by a criminal court or an Assam Rifles Court;

(g) any sum required to make good any loss, damage or destruction of public or regimental property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;

(h) all pay and allowances forfeited by order of the Central Government if the officer is found by a Court of inquiry constituted by the Director General in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(i) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

69. Subject to the provisions of section 72, the following penal deductions may be made from the pay and allowances of a person subject to this Act other than an officer, that is to say,—

Deductions
from pay and
allowances of
persons other
than officers.

(a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war unless a satisfactory explanation has been given and accepted by his Commandant, and for every day of imprisonment awarded by a criminal court, an Assam Rifles Court or an officer exercising authority under section 62;

(b) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or an Assam Rifles Court or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 62;

(c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(d) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by the order of the Central Government or such officer as may be specified by that Government;

(e) all pay and allowances ordered by an Assam Rifles Court or by an officer exercising authority under any of the sections 62, 64, 65 and 66 to be forfeited or stopped;

(f) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of the enemy;

(g) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his Commandant;

(h) any sum required to pay a fine awarded by a criminal court, an Assam Rifles Court or an officer exercising authority under any of the sections 62 and 69;

(i) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

Computation
of time of
absence of
custody.

70. For the purpose of clauses (a) and (b) of section 69,—

(a) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(b) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any duty which was thereby thrown upon some other person;

(c) absence or custody for twelve consecutive hours or upward may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(d) a period of absence or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

Pay and
allowances
during trial.

71. In case of any person subject to this Act who is in custody or under suspension from duty on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (b) of section 68 and section 69.

Limit of
certain
deductions.

72. The total deductions from the pay and allowances of a person made under clauses (e), (g) to (i) of section 69 shall not, except where he is sentenced to dismissal or removal, exceed in any one month one-half of his pay and allowances of that month.

Deduction
from public
money due to
a person.

73. Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Pay and
allowances of
prisoner of
war during
inquiry into
his conduct.

74. Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of the enemy, is to be inquired into under this Act or any other law, the Director-General or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

Remission of
deductions.

75. Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent and by such authority, as may, from time to time be prescribed.

Provision for
dependents of
prisoner of
war from
remitted
deductions.

76. In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (a) of section 69, but in respect of whom a remission has been made under section 75, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

Provision for
dependents of
prisoner of war
from his pay
and allowances.

77. It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act who is prisoner of war or is missing, out of his pay and allowances.

Period during
which a person
is deemed to be
a prisoner of
war

78. For the purposes of sections 76 and 77, a person shall be deemed to continue to be prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 74 and if he is dismissed or removed from the service in consequence of such conduct, until the date of such dismissal or removal.

CHAPTER VII

ARREST AND PROCEEDINGS BEFORE TRIAL

79. (1) Any person subject to this Act who is charged with an offence may be taken into Force custody, under the order of any superior officer.

Custody of
offenders.

(2) Notwithstanding anything contained in sub-section (1), an officer may order into Force custody any other officer, though such other officer may be of a higher rank, engaged in a quarrel, affray or disorder.

80. (1) It shall be the duty of every Commandant to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

Duty of
Commandant
in regard to
detention.

(2) The case of every person, being detained in custody beyond a period of forty-eight hours, and reason thereof, shall be reported by the Commandant to the Deputy Inspector-General under whom he is serving or such other officer to whom an application may be made to convene an Assam Rifles Court for the trial of the person charged.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody, pending the trial by any competent authority for any offence committed by him.

81. In every case where any such person as is mentioned in section 79 and as not on active duty, remains in such custody for a longer period than eight days, without his trial by an Assam Rifles Court being ordered to be convened, a special report giving reasons for the delay shall be made by his Commandant in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until an Assam Rifles Court is convened or such person is released from custody.

Interval
between
committal
and trial.

82. Whenever any person subject to this Act who is accused of an offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate or police officer shall aid in the apprehension and delivery to Force custody of such person upon receipt of a written application to that effect signed by his Commandant or an officer authorised by the Commandant in that behalf.

Arrest by
civil
authorities.

83. (1) Whenever any person subject to this Act deserts, the Commandant of the unit to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate and shall deliver the deserter, when apprehended, into Force custody.

Capture of
deserters.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

84. (1) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period

Inquiry into
absence
without leave.

thereof and the said deficiency, if any, and the Commandant of the unit to which the person belongs shall make a record thereof in the prescribed manner.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purpose of this Act, be a deemed to be a deserter.

Force Police
Officers.

85. (1) The Director-General or any prescribed officer may appoint persons (in this Act referred to as Force Police) for discharging the functions specified in sub-sections (2) and (3).

(2) The duties of a person appointed under sub-section (1), are to take charge of persons confined for any offence, to preserve good order and discipline and to prevent breaches of the same by persons serving in, or attached to, the Force.

(3) Notwithstanding anything contained in section 79, a person appointed under sub-section (1) may, at any time, arrest and detain for trial, any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of a sentence awarded by an Assam Rifles Court or by an officer exercising authority under section 62 but shall not inflict any punishment on his own authority:

Provided that no officer shall be arrested or detained otherwise than on the order of another officer.

CHAPTER VIII

ASSAM RIFLES COURTS

Kinds of
Assam Rifles
Courts.

86. For the purposes of this Act there shall be three kinds of Assam Rifles Courts, that is to say,—

- (a) General Assam Rifles Courts;
- (b) Petty Assam Rifles Courts; and
- (c) Summary Assam Rifles Courts.

Power to
convene a
General
Assam Rifles
Court.

87. A General Assam Rifles Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

Power to con-
vene a Petty
Assam Rifles
Court.

88. A Petty Assam Rifles Court may be convened by an officer having power to convene a General Assam Rifles Court or by an officer empowered in this behalf by warrant of any such officer.

Contents of
warrants issued
under sections
87 and 88.

89. A warrant issued under section 87 or section 88 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Composition
of General
Assam Rifles
Court.

90. A General Assam Rifles Court shall consist of not less than five officers, each of whom has held the post of Assistant Commandant for not less than three whole years and of whom not less than four are of a rank not below that of a confirmed Assistant Commandant.

Explanation.—For the purpose of this section and section 91, "Assistant Commandant" includes any post of a higher rank and any post declared by the Central Government, by notification, to be an equivalent post as also any post higher in rank than the post so declared.

Composition
of a Petty
Assam Rifles
Court.

91. A Petty Assam Rifles Court shall consist of not less than three officers, each of whom has held the post of Assistant Commandant for not less than two whole years.

Summary
Assam Rifles
Court.

92. (1) A Summary Assam Rifles Court may be held by the Commandant of any unit of the Force and he alone shall constitute the Court.

(2) The proceedings shall be attended throughout by two other persons who shall be officers or subordinate officers or one of either, and who shall not as such, be sworn or affirmed.

93. (1) If an Assam Rifles Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

Dissolution of
an Assam
Rifles Court.

(2) If, on account of the illness of the Law Officer or of the accused before the finding, it is impossible to continue the trial, an Assam Rifles Court shall be dissolved.

(3) The officer who convened an Assam Rifles Court may dissolve the same if it appears to him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Assam Rifles Court.

(4) Where an Assam Rifles Court is dissolved under this section, the accused may be tried again.

94. A General Assam Rifles Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

Power of
General
Assam Rifles
Court.

95. A Petty Assam Rifles Court shall have power to try any person subject to this Act other than an officer or a subordinate officer for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death or imprisonment for a term exceeding two years.

Power of a
Petty Assam
Rifles Court.

96. (1) Subject to the provisions of sub-section (2), a Summary Assam Rifles Court may try any offence punishable under this Act.

Power of a
Summary
Assam Rifles
Court.

(2) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a Petty Assam Rifles Court for the trial of the alleged offender, an officer holding a Summary Assam Rifles Court shall not try without such reference any offence punishable under any of the sections 21, 24 and 55, or any offence against the officer holding the Court.

(3) A Summary Assam Rifles Court may try any person subject to this Act and under the command of the officer holding the Court, except an officer or a subordinate officer.

(4) A Summary Assam Rifles Court may pass any sentence which may be passed under this Act except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (5).

(5) The limit referred to in sub-section (4) shall be—

(a) one year, if the officer holding the Assam Rifles Court has held either the post of Commandant or a post declared by the Central Government, by notification, to be equivalent thereto for a period of not less than three years or holds a post of higher rank than either of the said posts; and

(b) three months, in any other case.

97. (1) When any person subject to this Act has been acquitted or convicted of an offence by an Assam Rifles Court or by a criminal court or has been dealt with under section 62 or section 64 or section 65 or section 66, he shall not be liable to be tried again for the same offence by an Assam Rifles Court or dealt with under the said sections.

Prohibition
of second
trial.

(2) When any person, subject to this Act has been acquitted or convicted of an offence by an Assam Rifles Court or has been dealt with under section 62 or section 64 or section 65 or section 66, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

98. (1) Except as provided by sub-section (2), no trial by an Assam Rifles Court of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years and such period shall commence—

Period of
limitation for
trial.

(a) on the date of the offence ; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to the authority competent to initiate action, from the first day on which such offence comes to the knowledge of such person or authority, whichever is earlier; or

(c) where it is not known by whom the offence was committed, from the first day on which the identity of the offender is known to the person aggrieved by the offence or to the authority competent to initiate action, whichever is earlier:

Provided that in computing any period under this section, the period during which the proceedings of investigation has been stayed by any court in such offence by injunction or order, the period of the continuance of the injunction or order, the day on which it was issued or made; and the day on which it was withdrawn, shall be excluded.

(2) The provisions of sub-section (1) shall not apply to a trial for an offence of desertion or for any of the offences mentioned in section 24 or an offence under section 30.

(3) In computation of the period of three years under sub-section (1), any time spent by such person in evading arrest after the commission of the offence, shall be excluded.

Trial, etc., of
offender who
ceases to be
subject to this
Act.

99. (1) Where an offence under this Act had been committed by any person while subject to this Act and he had ceased to be so subject, he may be taken into and kept in Force custody and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within a period of three years after he had ceased to be subject to this Act; and in computing such period, the time during which such person has avoided arrest by absconding or concealing himself or where the institution of the proceeding in respect of the offence has been stayed by an injunction or order, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 24 or shall affect the jurisdiction of a criminal court to try an offence triable by such court as well as by an Assam Rifles Court.

Application
of this Act
during term of
sentence.

100. (1) When a person subject to this Act is sentenced by an Assam Rifles Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Force or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by an Assam Rifles Court to death, this Act shall apply to him till the sentence is carried out.

Place of trial.

101. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

Choice
between
criminal court
and Assam
Rifles Court.

102. When a criminal court and an Assam Rifles Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, or the Inspector-General or the Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed, to decide before which court proceedings shall be instituted, and, if that officer, decides that they shall be instituted before an Assam Rifles Court, to direct that the accused person shall be detained in Force custody.

Power of
criminal court
to require
delivery of
offender.

103. (1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 102 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER IX

PROCEDURE OF ASSAM RIFLES COURTS

- 104.** At every General Assam Rifles Court or Petty Assam Rifles Court, the senior member shall be the presiding officer. Presiding Officer.
- 105.** Every General Assam Rifles Court shall, and every Petty Assam Rifles Court may, be attended by a Law Officer, or if no such officer is available, an officer approved by the Chief Law Officer or a Law Officer. Law Officer.
- 106. (1)** At all trials by a General Assam Rifles Court or by a Petty Assam Rifles Court, as soon as the Court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court. Challenges.
- (2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.
- (3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.
- (4) When no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.
- 107. (1)** An oath or affirmation in the prescribed manner shall be administered to every member of an Assam Rifles Court and to the Law Officer or, as the case may be, the officer approved under section 105 before the commencement of the trial. Oath of member, Law Officer and witness.
- (2) Every person giving evidence before an Assam Rifles Court shall be examined after being duly sworn or affirmed in the prescribed form.
- (3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the Assam Rifles Court is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.
- 108. (1)** Subject to the provisions of sub-sections (2) and (3), every decision of an Assam Rifles Court shall be passed by a majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused. Voting by members.
- (2) No sentence of death shall be passed by a General Assam Rifles Court without the concurrence of at least two-thirds of the members of the Court.
- (3) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.
- 109.** The Indian Evidence Act, 1872 shall, subject to the provisions of this Act, apply to all proceedings before an Assam Rifles Court. General rule as to evidence.
- 110.** An Assam Rifles Court may take judicial notice of any matter within the general knowledge of the members as officers of the Force. Judicial notice.
- 111. (1)** The convening officer, the presiding officer of an Assam Rifles Court or court of inquiry or the Law Officer or, as the case may be, the officer approved under section 105 or Summoning of witness.

the Commandant of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness, who is subject to this Act, the summons shall be sent to his Commandant and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

Documents
exempted
from
production.

112. (1) Nothing in section 111 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

1 of 1872.

(2) If any document in such custody is, in the opinion of any Chief Judicial Magistrate, Chief Metropolitan Magistrate, Court of Session or High Court, wanted for the purpose of any Assam Rifles Court, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate, or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the orders of any such Chief Judicial Magistrate, Chief Metropolitan Magistrate or Court of Session or High Court.

Commission
for
examination
of witness.

113. (1) Whenever, in the course of a trial by an Assam Rifles Court, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Chief Law Officer in order that a commission to take the evidence of such witness may be issued.

(2) The Chief Law Officer may then, if he thinks necessary, issue a commission to any Chief Judicial Magistrate or Judicial Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Chief Judicial Magistrate or Judicial Magistrate of the first class to whom the commission is issued, or, if he is the Chief Judicial Magistrate, he or such Judicial Magistrate of the first class as he appoints in this behalf, shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1973.

2 of 1974

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in sub-heading "B—Commissions for the examination of witnesses" of Chapter XXIII of the Code of Criminal Procedure, 1973.

2 of 1974.

Examination
of witness on
commission.

114. (1) The prosecutor and the accused person in any case in which a commission is issued under section 113 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Chief Judicial Magistrate or the Judicial Magistrate of the first class executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Chief Judicial Magistrate or the Judicial Magistrate of the first class by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 113 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder to the Chief Law Officer.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Chief Law Officer shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 113, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

115. A person charged before an Assam Rifles Court—

Conviction of offences not charged.

(a) with desertion may be found guilty of attempting to desert or of being absent without leave;

(b) with attempting to desert may be found guilty of being absent without leave;

(c) with using criminal force may be found guilty of assault;

(d) with using threatening language may be found guilty of using insubordinate language;

(e) with any one of the offences specified in clauses (a), (b), (c) and (d) of section 39 may be found guilty of any other of these offences with which he might have been charged;

(f) with an offence punishable under section 55 may be found guilty of any other offence of which he might have been found guilty, if the provisions of the Code of Criminal Procedure, 1973, were applicable;

(g) with any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment;

(h) with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

116. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

Presumption as to signatures.

117. (1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

Enrolment paper.

(2) The enrolment of such person may be proved by the production of the original or a copy of this enrolment paper purporting to be certified to be a true copy by the officer having custody of enrolment paper.

118. (1) A letter, return or other document respecting the service of any person in, or the dismissal, removal or discharge of any person from, any unit of the Force, or respecting the circumstances of any person not having served in, or belonged to any unit of the Force, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any prescribed officer, shall be the evidence of facts stated in such letter, return or other document.

Presumption as to certain documents.

(2) An Assam Rifles list or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, subordinate officers therein mentioned, and

of any appointment held by them and of the battalion, unit or branch of the Force to which they belong.

(3) Where a record is made in any battalion book in pursuance of this Act or of any rules or otherwise in the discharge of official duties, and purporting to be signed by the Commandant or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) A copy of any record in any battalion book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any unit of the Force, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer or by the Commandant of the unit to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be the evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating facts, the date and place of such surrender or apprehension, and the manner in which he was dressed shall be evidence of the matters so stated.

(7) Any document purporting to be the report under the hand of a Government scientific expert, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquiry, trial or other proceeding under this Act.

(8) The Assam Rifles Court may, if it thinks fit, summon and examine the expert referred to in sub-section (7) as to the subject matter of his report.

(9) Where any such expert is summoned by an Assam Rifles Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such deputed officer is conversant with the facts of the case and satisfactorily depose in the Court on his behalf.

(10) The provisions of sub-sections (7), (8) and (9) shall apply to such Government scientific experts as specified in sub-section (4) of section 293 of the Code of Criminal Procedure, 1973.

2 of 1974.

Reference by
accused to
Government
officer.

119. (1) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.

(3) If the Court is dissolved before the receipt of such reply or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

Evidence of
previous
convictions
and general
character.

120. (1) When any person subject to this Act has been convicted by an Assam Rifles Court of any offence, such Assam Rifles Court may inquire into, and receive, and record evidence of any previous convictions of such person, either by an Assam Rifles Court or by a criminal court, or any previous award of punishment under section 62 or section 64 or

section 65 or section 66, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of an Assam Rifles Court, or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a Summary Assam Rifles Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

121. (1) Whenever, in the course of a trial by an Assam Rifles Court, it appears to the Court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the Court shall record a finding accordingly.

Lunacy of
accused.

(2) The presiding officer of the Court, or in the case of a Summary Assam Rifles Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its findings under section 137, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Assam Rifles Court for the offence with which he was charged.

(4) The authority to whom the finding of a Summary Assam Rifles Court is reported under sub-section (2), and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

122. Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 121, any officer prescribed in this behalf, may,—

Subsequent
fitness of
lunatic
accused for
trial.

(a) if such person is in custody under sub-section (4) of section 121, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 121 on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence,

take steps to have such person tried by the same or another Assam Rifles Court for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

123. A copy of every order made by an officer under section 122 for the trial of the accused shall forthwith be sent to the Central Government.

Transmission
to Central
Government
of orders
under section
122.

124. Where any person is in custody under sub-section (4) of section 121 or under detention under sub-section (5) of that section,—

Release of
lunatic
accused.

(a) if such person is in custody under the said sub-section (4), on the report of a medical officer, or

(b) if such person is detained under the said sub-section (5), on a certificate from any of the authorities mentioned in clause (b) of section 122 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been to such an asylum.

Delivery of
lunatic
accused to
relatives.

125. Where any relative or friend of any person who is in custody under sub-section (4) of section 121 or under detention under sub-section (5) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

Order for
custody and
disposal of
property
pending trial.

126. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before an Assam Rifles Court during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold otherwise disposed of.

Order of
disposal of
property
regarding
which offence
is committed.

127. (1) After the conclusion of a trial before any Assam Rifles Court, the Court or the officer confirming the finding or sentence of such Assam Rifles Court, or any authority superior to such officer, or, in the case of Summary Assam Rifles Court whose finding or sentence does not require confirmation, an officer not below the rank of Deputy Inspector-General within whose command the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or regarding which any offence appears to have been committed or which has been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973.

2 of 1974.

(3) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

Powers of
Assam Rifles
Court in
relation to
proceedings
under this
Act.

128. Any trial by an Assam Rifles Court under the provisions of the Act shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code and the Assam Rifles Court shall be deemed to be the Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

45 of 1860.
2 of 1974.

CHAPTER X

CONFIRMATION AND REVISION

Finding and
sentence not
valid unless
confirmed.

129. No finding or sentence of a General Assam Rifles Court or a Petty Assam Rifles Court shall be valid except so far as it may be confirmed as provided by this Act.

130. The findings and sentences of General Assam Rifles Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

Power to confirm finding and sentence of General Assam Rifles Court.

131. The findings and sentences of Petty Assam Rifles Courts may be confirmed by an officer having power to convene a General Assam Rifles Court or by any officer empowered in this behalf by warrant of such officer.

Power to confirm finding and sentence of Petty Assam Rifles Court.

132. A warrant issued under section 130 or section 131 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Limitation of powers of confirming authority.

133. Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 130 or section 131, a confirming authority may, when confirming the sentence of an Assam Rifles Court, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishment lower in the scale laid down in section 57.

Power of confirming authority to mitigate, remit or commute sentences.

134. When any person subject to this Act is tried and sentenced by an Assam Rifles Court while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Confirming of findings and sentences on board a ship.

135. (1) Any finding or sentence of an Assam Rifles Court which requires confirmation may be once revised by order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

Revision of finding or sentence.

(2) The Court, on revision, shall consist of the same officers as were present when the original decision was passed unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision:

Provided that, if a General Assam Rifles Court, still consists of five officers, or, if a Petty Assam Rifles Court, of three officers.

136. (1) Save as otherwise provided in sub-section (2), the finding and sentence of a Summary Assam Rifles Court shall not require to be confirmed, but may be carried out forthwith.

Finding and sentence of a Summary Assam Rifles Court.

(2) If the officers holding the trial is of the rank of Deputy Commandant or of a rank declared under clause (a) of sub-section (5) of section 96 as equivalent thereto or of a lower rank and has held such rank for less than five years, he shall not, except on active duty, carry into effect any sentence, until it has received the approval of an officer not below the rank of a Deputy Inspector-General.

137. The proceedings of every Summary Assam Rifles Court shall, without delay, be forwarded to the officer not below the rank of Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such officer or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the court might have passed.

Transmission of proceedings of Summary Assam Rifles Court.

Alteration of finding or sentence in certain cases.

138. (1) Where a finding of guilty by an Assam Rifles Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 150 to commute the punishment awarded by the sentence, if the finding had been valid may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the Assam Rifles Court on the charge and unless it appears that the Assam Rifles Court must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by an Assam Rifles Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1) is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishment than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purpose of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of an Assam Rifles Court.

Remedy against order, finding or sentence of Assam Rifles Court.

139. (1) Any person subject to this Act who considers himself aggrieved by any order passed by any Assam Rifles Court may present a petition to the officer or authority empowered to confirm any finding or sentence of the Assam Rifles Court and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Assam Rifles Court which has been confirmed may present a petition to the Central Government, the Director-General or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.

Annulment of proceedings.

140. The Central Government, the Director-General or any prescribed officer may annul the proceeding of any Assam Rifles Court on the ground that they are illegal or unjust.

CHAPTER XI

EXECUTION OF SENTENCE, PARDONS, REMISSION, ETC.

Form of sentence of death

141. In awarding a sentence of death, an Assam Rifles Court shall in its discretion direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Commencement of sentence of imprisonment.

142. Whenever any person is sentenced by an Assam Rifles Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day in which the original proceedings were signed by the presiding officer, or in the case of a Summary Assam Rifles Court, by the Court:

Provided that when a person subject to this Act is sentenced by an Assam Rifles Court to a term of imprisonment, not being an imprisonment in default of payment of fine, the period spent by him in civil or Force custody during investigation, inquiry or trial of the same case, and before the date of order, such sentence shall be set off against the term of imprisonment imposed upon him and the liability of such person or officer to undergo imprisonment on such order of sentence shall be restricted to the remainder, if any, of the term of imprisonment imposed upon him.

143. (1) Whenever any sentence of imprisonment is passed under this Act by an Assam Rifles Court or whenever any sentence of death is commuted to imprisonment, the confirming officer or in case of a Summary Assam Rifles Court, the officer holding the Court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (3) and (4), direct that the sentence shall be carried out by confinement in a civil prison.

Execution of sentence of imprisonment.

(2) When a direction has been made under sub-section (1), the Commandant of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his dispatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by an Assam Rifles Court the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in force custody instead of in a civil prison.

(4) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the Deputy Inspector-General within whose command the person sentenced is serving or any prescribed officer may from time to time appoint.

144. Where a sentence of imprisonment is directed to be undergone in a civil prison, the offender may be kept in Force custody or in any other fit place till such time as it is possible to send him to a civil prison.

Temporary custody of offender.

145. Whenever, in the opinion of an officer not below the rank of Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in Force custody in accordance with the provisions of section 143, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Execution of sentence of imprisonment in special case.

146. A person under sentence of imprisonment may, during his conveyance from place to place, or when on board ship, aircraft or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

Conveyance of prisoner from place to place.

147. When an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

Communication of certain orders to prison officers.

148. When a sentence of fine is imposed by an Assam Rifles Court under section 55, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required by the officer holding the trial may be sent to any Magistrate in India and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973, as if it were a sentence of fine imposed by such Magistrate.

Execution of sentence of fine.

2 of 1974.

149. Whenever any person is sentenced to imprisonment under this Act and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or is confined in any such place, and any such order, warrant or document may be amended accordingly.

Informality or error in the order or warrant.

150. When any person subject to this Act has been convicted by an Assam Rifles Court of any offence, the Central Government or the Director-General, or in the case of a sentence which he could have confirmed or which did not require confirmation, an officer not below the rank of Deputy Inspector-General within whose command such person at the time of conviction was serving or the prescribed officer may,---

Pardon and remission.

(a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(b) mitigate the punishment awarded; or

(c) commute such punishment for any less punishment or punishments mentioned in this Act; or

(d) either with or without conditions which the person sentenced accepts, release the person on parole.

Cancellation
of conditional
pardon,
release on
parole or
remission.

151. (1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

(2) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (1) shall undergo only the unexpired portion of his sentence.

Suspension of
sentence of
imprisonment.

152. (1) Where a person subject to this Act is sentenced by an Assam Rifles Court to imprisonment, the Central Government, the Director-General or any officer empowered to convene a General Assam Rifles Court may suspend the sentence whether or not the offender has already been committed to prison or to Force custody.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced direct that until the order of such authority or officer have been obtained, the offender shall not be committed to prison or to Force custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

Orders
pending
suspension.

153. (1) Where sentence referred to in section 152 is imposed by an Assam Rifles Court other than Summary Assam Rifles Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Force custody until the orders of the authority or officer specified in section 152 have been obtained.

(2) Where a sentence of imprisonment is imposed by a Summary Assam Rifles Court, the officer holding the trial or the officer authorised to approve the sentence under sub-section (2) of section 136 may make the direction referred to in sub-section (1).

Release on
suspension.

154. Where a sentence is suspended under section 152 the offender shall forthwith be released from custody.

Computation
of period of
suspension.
Order after
suspension.

155. Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

156. The authority or officer specified in section 152 may, at any time while a sentence is suspended, order—

(a) that the offender be committed to undergo the unexpired portion of the sentence; or

(b) that the sentence be remitted.

Reconsideration
of case after
suspension.

157. (1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 152 or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 152.

(2) Where on such reconsideration by the officer so authorised it appears to him that the conduct of offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 150.

158. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then,—

Fresh sentence after suspension.

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently.

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall be so committed to prison or to Force custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 156 or section 157, continue to be suspended.

159. The powers conferred by sections 152 and 156 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

Scope of power of suspension.

160. (1) Where in addition to any other sentence the punishment of dismissal or removal has been awarded by an Assam Rifles Court, and such sentence is suspended under section 152, then, such dismissal or removal shall not take effect until so ordered by the authority or officer specified in section 152.

Effect of suspension and remission on dismissal.

(2) If such other sentence is remitted under section 156, the punishment of dismissal or removal shall also be remitted.

CHAPTER XII

MISCELLANEOUS

161. The Central Government or any other authority empowered in this behalf by that Government may, by a general or special order, make provisions for the disposal of the private or regimental property of any person subject to this Act or any other dues including provident fund of that person, who dies or deserts, or is ascertained to be of unsound mind or while on active duty is officially reported as missing.

Disposal of property of the members of the Force.

162. (1) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations, and within the local limits of such area adjoining the border of India, as may be specified in the order, any member of the Force may,—

Powers and duties conferrable and imposable on members of the Force.

(a) for the purpose of prevention of any offence punishable under the Passport (Entry into India) Act, 1920, the Registration of Foreigners Act, 1939, the Central Excise Act, 1944, the Foreigners Act, 1946, the Customs Act, 1962, the Passports Act, 1967 or the Foreign Exchange Management Act, 1999 or of any cognizable offence punishable under any other Central Act; or

(b) for the purpose of apprehending any person who has committed any offence referred to in clause (a),

exercise or discharge such of the powers or duties under that Act or any other Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that or such other Act empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a State Act by a police officer upon a member of the Force who, in the opinion of the Central Government, holds a corresponding or higher rank.

34 to 1920.
16 of 1939.
1 of 1944.
31 of 1946.
52 of 1962.
15 of 1967.
42 of 1999.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Protection
for acts of
members of
the Force.

163. (1) The provision of section 125 of the Indian Evidence Act, 1872 shall apply to such members of the Force who exercise or discharge any power or duty under sub-section (1) of section 162 or on whom any power is conferred or duty is imposed under sub-section (2) of that section in the same manner as it apply to a police officer.

1 of 1872

(2) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead, that such act was done by him under the authority of such warrant or order.

(3) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(4) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceedings and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceedings.

Power of
Central
Government
to remove
difficulties.

164. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to
make rules.

165. (1) The Central Government may, by notification, make rules for the purposes of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of re-constitution of the Force and the conditions of service of the members of the Force under sub-section (2) of section 4;

(b) the mode of enrolment and the procedure for enrolment under sub-section (1) of section 6;

(c) the authority whose previous permission in writing is required for resigning from appointment or withdrawing from all or any of the duties under section 8;

(d) rank or ranks of an officer or a subordinate officer referred to under sub-section (2) of section 11;

(e) the authority who shall give previous sanction in writing under sub-section (1) of section 13;

(f) nature of communication or publication under clause (c) of sub-section (1) of section 13;

(g) other purposes of meeting or demonstration under sub-section (2) of section 13;

(h) form of enrolment under section 31;

(i) any other purpose under clause (h) of sub-section (1) of section 57;

(j) the officer who may direct that an enrolled person who has been sentenced to dismissal or imprisonment whether combined with dismissal or not may be retained to serve in the ranks under section 60;

(k) the manner of proceedings against a person and the extent of awarding punishment under section 62;

(l) the manner of proceeding against an officer below the rank of a Deputy Commandant and of in the rank of subordinate officer and of a rank of a Warrant Officer under sub-section (1) of section 64;

(m) the manner of forwarding certified true copies of the proceedings and the superior authority to whom such copies shall be forwarded under sub-section (2) of section 64;

(n) the manner of proceeding against an officer below the rank of Commandant and of any rank of subordinate officer and of a rank of Warrant Officer under sub-section (1) of section 65;

(o) the manner of proceeding against any subordinate officer or a Warrant Officer under section 66;

(p) the officer by whose order any sum is required to be paid, for the maintenance of wife or legitimate or illegitimate child of a person subject to this Act other than an officer, under clause (i) of section 69;

(q) the officer who may direct that the whole or any part of the pay and allowances of person subject to this Act shall be withheld under section 71;

(r) the manner and the extent of remission of deductions from pay and allowances authorised by this Act and the authority by which such remission shall be made under section 75;

(s) the authorities by whom proper provision to be made out of the pay and allowances of all persons subject to this Act, being prisoners of war, for the dependents of such persons under section 76;

(t) the authorities who shall make proper provision out of the pay and allowances of any person subject to this Act, who is prisoner of war or is missing under section 77;

(u) the manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody under sub-section (4) of section 80;

(v) the manner of making special report giving reasons for delay under section 81;

(w) the authority to appoint, and the manner of appointment of, a court of inquiry; the manner of administering oath or affirmation by such court of inquiry and the manner of making record under sub-section (1) of section 84;

(x) the officer who may appoint Force Police under sub-section (1) of section 85;

(y) the other officer having the discretion to decide before which court the proceeding shall be instituted under section 102;

(z) the manner of filling up the vacancy of member by another officer under sub-section (3) of section 106;

(za) the manner of administering oath or affirmation to every member of an Assam Rifles Court and to the Law Officer, or, as the case may be, the officer approved under section 105 before the commencement of the trial, under sub-section (1) of section 107;

(zb) the form of being duly sworn or affirmation under sub-section (2) of section 107;

(zc) the officer by whom the letter, return or other documents purported to be signed shall be the evidence of the facts stated in such letter, return or other document under sub-section (1) of section 118;

(zd) the other matters to be further inquired and recorded under sub-section (1) of section 120;

(ze) the other matters to be recorded under sub-section (3) of section 120;

(zf) the manner of keeping in custody of the accused person under sub-section (4) of section 121;

(zg) the officer who may take steps to have certain persons tried under section 122;

(zh) the authority for issuing certificate in case of detention in any other place under clause (b) of section 122;

(zi) the officer to whom the proceedings of every Summary Assam Rifles Courts shall be forwarded under section 137;

(zj) the officer superior in command, to the one who confirmed the findings or sentence referred to in sub-section (2) of section 139, to whom petition may be presented under that sub-section;

(zk) the officer who may annul the proceeding of any Assam Rifles Court under section 140;

(zl) the other officer who shall direct that sentence shall be carried out by the confinement in a civil prison under sub-section (1) of section 143;

(zm) the officer who shall forward a warrant and the form of such warrant under sub-section (2) section 143;

(zn) the officer who may from time to time appoint the place of confinement under sub-section (4) of section 143;

(zo) the other person by whom the warrant shall be forwarded to the officer in charge of the prison under section 147;

(zp) the officer who may pardon or exercise other powers as specified under clauses (a) to (c) of section 150;

(zq) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to
make
regulations.

Rules and
regulations to
be laid before
Parliament.

166. The Director-General may make regulations for all or any of the purpose of this Act other than those specified in section 165, subject to approval of the Central Government.

167. Every rule or regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before, the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both

Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

5 of 1941.

168. (1) The Assam Rifles Act, 1941 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal,—

(a) the Assam Rifles in existence at the commencement of this Act and constituted under the Act so repealed shall be deemed to be reconstituted under this Act;

(b) members of the Assam Rifles in existence at the commencement of this Act and appointed under the Act so repealed shall be deemed to have been appointed or, as the case may be, enrolled as such under this Act;

5 of 1941.

(c) any appeal, application, trial, inquiry or investigation pending immediately before the commencement of this Act shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Assam Rifles Act, 1941, as if this Act had not come into force;

(d) any thing done or any action taken before the commencement of this Act, in relation to any person appointed or enrolled, shall be valid and as effective in law as if such thing or action was done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Assam Rifles was initially raised in 1835 as Cachar Levy and was employed on frontier watch and ward duty to assist the civil administration in the maintenance of law and order in the tribal areas of the erstwhile composite State of Assam particularly in Lushai and Mikir Hills, Naga Hills, Khasi-Jaintia and Garo Hills as also in the erstwhile North-East Frontier Agency (Now Arunachal Pradesh).

2. The Force came under the control of the Central Government in 1941 after the passing of the Assam Rifles Act, 1941 (5 of 1941). It was administered by the Governor of Assam through the North-East Frontier Agency (NEFA) under the overall control of the Ministry of External Affairs, and was later on transferred to the Ministry of Home Affairs in 1965. Certain Assam Rifles battalions were placed under the operational control of the Army. The strength of the Assam Rifles battalions was 5 battalions till 1950 and was increased to take care of border security and internal security duties. The Assam Rifles is now comprised of 46 battalions.

3. This Force has been charged with the responsibility of ensuring security of the borders of India, to carry out counter insurgency operations in the specified areas and to act in aid of civil authorities for the maintenance of law and order and for matters connected therewith. The personnel of Assam Rifles are governed by the Assam Rifles Act, 1941 except for the personnel of those battalions of the Assam Rifles which are at present deployed under the operational control of the Army in whose case the Army Act, 1950 is applicable with certain exceptions and modifications. The gradual change in the complexion of the Force had made the existing Assam Rifles Act, 1941 outdated. The Assam Rifles Act, 1941 is not applicable to the officers of the Force and thus there is a vacuum. Considering the nature and purpose of the Force and to bring uniformity in application of the legal provisions, it is felt that a separate enactment, which will provide for its special needs, should regulate the Force.

4. Keeping in view the above, the Assam Rifles Bill, 2003 was introduced in the thirteenth Lok Sabha on 8th May, 2003 and the same was referred to the Department related Parliamentary Standing Committee on Home Affairs for examination and report. The Committee presented its report on the said Bill in the Parliament on 19th December, 2003. The Committee adopted the said Bill with certain recommendations which have been examined and considered by the Government. However, the said Bill was lapsed on the dissolution of the thirteenth Lok Sabha. As regards the recommendations in respect of clauses 2 and 108 have been incorporated in the present Bill. The other recommendations will be taken care of while framing the rules and regulations under the proposed legislation.

5. The salient features of the present Bill, *inter alia*, are as follows:—

- (i) the constitution of the Assam Rifles as an Armed Force of the Union, with provisions for its control and other provisions relating to its establishment, etc.;
- (ii) establishment and procedure of the Assam Rifles Courts, offences committed by the Force members, punishment therefor and trial of such offences by the Assam Rifles Courts;
- (iii) provisions relating to retention, custody and trial of the offenders under the proposed legislation;
- (iv) provisions for redressal of grievances of members of the Force who deem themselves wronged by their superior;

(v) provision for imposition of certain restrictions on the rights of member of the Force in terms of article 33 of the Constitution of India;

(vi) confirmation, revision and execution of sentences, pardons and remissions, etc., and miscellaneous provisions;

(vii) deductions to be made from the pay and allowances of the members of the Force for certain offences;

(viii) provision for prohibition of second trial on the lines of the principles enshrined in article 20(2) of the Constitution of India;

(ix) provision for a period of limitation for trial of offences under the proposed legislation;

(x) provision for Law Officer to attend every General Assam Rifles Court and Petty Assam Rifles Court;

(xi) manner of execution of sentences of death as well as imprisonment and provisions relating to powers and duties of members of the Assam Rifles;

(xii) statutory protection for acts done by members of the Assam Rifles in discharging their official duty; and

(xiii) proposes to repeal the existing Assam Rifles Act, 1941.

6. The Bill seeks to achieve the above objects.

SHIVRAJ V. PATIL.

Notes on clauses

Clause 2.—This clause seeks to define the various expressions commonly used in the Bill.

Clause 3.—This clause specifies the persons who shall be subject to the proposed legislation. Sub-clause (3) specifies that the persons who are on deputation from the regular Army, shall not be subject to the proposed legislation and they shall continue to be governed by the Army Act, 1950. Sub-clause (4) specifies that the persons who are not otherwise subject to the proposed legislation shall be deemed to be a member of the Force by a notification issued by the Central Government when such persons are engaged to or accompany with any member of the Force to provide any service in any manner.

Clause 4.—This clause seeks to provide for the constitution of the Assam Rifles.

Clause 5.—This clause seeks to provide for the general superintendence, direction and control of the Force and appointment of officers of the Force shall vest in and be exercised by the Central Government. Further, this clause provides that subject to the provisions of the proposed legislation and rules and regulations made thereunder, command and supervision of the Force shall vest in an officer to be appointed by the Central Government or the Director General of the Force.

Clause 6.—This clause seeks to provide for the enrolment into the Force and a person who is not a citizen of India shall not be enrolled in the Force except by the consent of the Central Government in writing.

Clause 7.—This clause seeks to provide the liability of every member of the Force to serve in any part of India as well as outside India.

Clause 8.—This clause seeks to provide for the procedure for the resignation and withdrawal of a member of the Force.

Clause 9.—This clause seeks to provide that every person subject to the proposed legislation shall hold office during the pleasure of the President.

Clause 10.—This clause seeks to provide the termination of service of any person subject to the proposed legislation by the Central Government.

Clause 11.—This clause seeks to provide that the Director-General, Additional Director General or any Inspector-General may dismiss or remove from service or reduce to a lower grade or rank or ranks any person subject to the proposed legislation other than an officer.

Clause 12.—This clause seeks to provide that on termination of service of a subordinate officer, under-officer and an enrolled person will be provided with certificate.

Clause 13.—This clause seeks to impose certain restrictions on the rights of members of the Force to form associations, and on their freedom of speech. This clause basically incorporates the principles laid down in article 33 of the Constitution of India.

Clause 14.—This clause seeks to provide only authorised deductions to be made from the pay of every person subject to the proposed legislation.

Clause 15.—This clause seeks to provide for redressal of grievance of a person subject to the proposed legislation, other than an officer, who deems himself wronged by an officer or a subordinate officer.

Clause 16.—This clause seeks to provide for redressal of grievance to an officer who deems himself wronged by a superior officer.

Clause 17.—This clause seeks to provide immunity from attachment of pay and other necessities including arms, clothes and equipment of a person subject to this legislation by a process of civil or revenue court.

Clause 18.—This clause seeks to provide for immunity to person subject to the proposed legislation from arrest for debt by the authority of any civil court, revenue court or revenue officer except with the prior consent of the Central Government.

Clause 19.—This clause seeks to provide for immunity from arrest under civil or revenue process of any person who is attending an Assam Rifles Court.

Clause 20.—This clause seeks to provide that the service privileges specified in clauses 14 to 19 shall be in addition to the privileges which have been conferred on persons subject to this legislation under any other law.

Clause 21.—This clause seeks to provide the offences committed in relation to enemy and are punishable with death.

Clause 22.—This clause seeks to provide the offences in relation to enemy and not punishable with death.

Clause 23.—This clause seeks to provide the offences, which are punishable more severely on active duty than at other times.

Clause 24.—This clause seeks to provide the offences of mutiny and punishment for the same.

Clause 25.—This clause seeks to provide the offences of desertion and aiding desertion and punishment for the same.

Clause 26.—This clause seeks to provide the offences related with absence without leave and punishment for the same.

Clause 27.—This clause seeks to provide the offence of striking and threatening superior officers and punishment for the same.

Clause 28.—This clause seeks to provide the offence of disobedience of orders by superior officer and punishment for the same.

Clause 29.—This clause seeks to provide the offence related with insubordination and obstruction and punishment for the same.

Clause 30.—This clause seeks to provide the offence of fraudulent enrolment and punishment for the same.

Clause 31.—This clause seeks to provide the offence related with false answers on enrolment and punishment for the same.

Clause 32.—This clause seeks to provide the offence of unbecoming conduct and punishment for the same.

Clause 33.—This clause seeks to provide the offences, which are certain forms of disgraceful conduct and punishment for the same.

Clause 34.—This clause seeks to provide the offence of ill-treating a subordinate and punishment for the same.

Clause 35.—This clause seeks to provide the offence of intoxication and punishment for the same.

Clause 36.—This clause seeks to provide the offence of permitting escape from custody and punishment for the same.

Clause 37.—This clause seeks to provide the offences related with irregularity in connection with arrest or confinement and punishment for the same.

Clause 38.—This clause seeks to provide the offence of escape from custody and punishment for the same.

Clause 39.—This clause seeks to provide the offences in respect of property and punishment for the same.

Clause 40.—This clause seeks to provide the offence of extortion and corruption and punishment for the same.

Clause 41.—This clause seeks to provide the offence of making away with equipment and punishment for the same.

Clause 42.—This clause seeks to provide the offence related with injury to property and punishment for the same.

Clause 43.—This clause seeks to provide the offences of false accusation and punishment for the same.

Clause 44.—This clause seeks to provide the offences relating to falsifying of official document and false declaration and punishment for the same.

Clause 45.—This clause seeks to provide the offence of signing in blank and failure to report and punishment for the same.

Clause 46.—This clause seeks to provide the offences relating to Assam Rifles Court and punishment for the same.

Clause 47.—This clause seeks to provide the offence for false evidence before any Assam Rifles Court or any other court competent to administer oath and affirmation and punishment for the same.

Clause 48.—This clause seeks to provide the offence for unlawful detention of pay and punishment for the same.

Clause 49.—This clause seeks to provide the offence for violation of good order and discipline and punishment for the same.

Clause 50.—This clause seeks to provide certain miscellaneous offences and the punishment for the same.

Clause 51.—This clause seeks to provide for attempt to commit offences specified in clauses 21 to 50, a distinct offence and punishment for the same.

Clause 52.—This clause seeks to provide offence of abetment of offences that have been committed.

Clause 53.—This clause seeks to provide offence of abetment of offences punishable with death and not committed.

Clause 54.—This clause seeks to provide offence of abetment of offences punishable with imprisonment and not committed.

Clause 55.—This clause seeks to provide for the trial of a person subject to this legislation for commission of a civil offence, that is offences triable by courts of ordinary criminal justice, subject to the provisions of clause 56.

Clause 56.—This clause seeks to provide that an offence of murder, culpable homicide not amounting to murder, rape when committed against a person not subject to this legislation shall not be tried by an Assam Rifles Court except in cases where the said offences are committed while on active duty at any place outside India or at any place specified by the Central Government by notification under clause 2(1)(a)(ii).

Clause 57.—This clause seeks to provide for various punishments which may be awarded by Assam Rifles Courts. In this clause the various punishments that have been provided are punishment of death; imprisonment which may extend to life or any other lesser term excluding imprisonment for three months in Force custody; dismissal from service; compulsory retirement; imprisonment for a term not exceeding three months in Force custody; reduction to the rank; forfeiture of seniority of rank and forfeiture of all or any part of service for the purpose of promotion; forfeiture of service for the purpose of increase in pay, pension or any other prescribed purpose; fine; severe reprimand or reprimand; forfeiture of

pay and allowances not exceeding three months for an offence committed on active duty; forfeiture of all arrears of pay and allowances in case of person sentenced to dismissal; stoppages of pay and allowances until any proved loss or damage occasioned by the offence is made good. The punishments specified above are to be deemed to be inferior in degree to every punishment preceding it in the above scale.

Clause 58.—This clause seeks to enable an Assam Rifles Court to take into account the nature and degree of the offence committed and award to the accused person convicted for any offence under clauses 21 to 54, the punishment lower in the scale within the meaning of clause 57.

Clause 59.—This clause seeks to provide for combination of punishments, which may be awarded by Assam Rifles Courts.

Clause 60.—This clause seeks to provide for retention in the Force, in the case of an enrolled person, when sentenced to dismissal or imprisonment on active duty.

Clause 61.—This clause seeks to provide for imposing punishment otherwise than by Assam Rifles Court in accordance with clauses 62, 64, 65 and 66.

Clause 62.—This clause seeks to authorise commandants and other officers specified by the Director-General with the consent of the Central Government to try in the prescribed manner any person lower in rank than an officer or subordinate officer for an offence and award one or more of the punishments specified therein.

Clause 63.—This clause seeks to impose certain limitations in respect of the award of punishments under clause 62.

Clause 64.—This clause seeks to authorise a Deputy Inspector-General or other officer specified by the Director-General with the consent of Central Government to try in the prescribed manner an officer below the rank of Deputy Commandant and any rank of subordinate officer and of a rank of Warrant Officer to award one or more of the minor punishments specified therein.

Clause 65.—This clause seeks to authorise an Inspector-General or other officer specified by the Director-General with the consent of Central Government to try in the prescribed manner an officer below the rank of Commandant and a subordinate officer and a Warrant Officer and award one or more of the minor punishments specified therein.

Clause 66.—This clause seeks to authorise a Commandant or such other officer specified by Director-General, Assam Rifles with the consent of Central Government to try any subordinate officer or a Warrant Officer and award one or more of the minor punishments specified in the clause.

Clause 67.—This clause seeks to provide for imposition of collective fines in case of loss or theft of weapons or ammunition of a unit of the Force upon the subordinate officers, under-officers and men of the unit considered to be responsible for the loss or theft. To avoid abuse, it has been provided that the power can be exercised only by an officer not below the rank of the Commandant of a battalion.

Clause 68.—This clause seeks to provide for the penal deductions, which can be made from the pay and allowances of an officer.

Clause 69.—This clause seeks to provide for the penal deductions that can be made from the pay and allowances of persons other than an officer.

Clause 70.—This clause seeks to provide for method of computation of period of absence or custody for the purpose of sub-clauses (a) and (b) of clause 69.

Clause 71.—This clause seeks to provide for withholding of whole or any part of pay and allowances of a person who is in custody or under suspension from duty on a charge for an offence.

Clause 72.—This clause seeks to provide the limit of certain deductions from the pay and allowances of members of the Force.

Clause 73.—This clause seeks to provide for deductions, which can be made from the public money, which is due to members of the Force.

Clause 74.—This clause seeks to provide that during the inquiry into the conduct of the prisoner of war in the hands of the enemy, the whole or any part of the pay and allowances of such prisoner shall be withheld during inquiry by the order of Director-General or an authorised officer.

Clause 75.—This clause seeks to provide for the power to remit any deduction made from the pay and allowances of a person subject to the proposed legislation.

Clause 76.—This clause seeks to provide that in the case of a prisoner of war whose pay and allowances have been forfeited under clause 69, but remission has been made under clause 75, provisions shall be made for dependents from the remitted deductions.

Clause 77.—This clause seeks to provide for making provision for dependents of prisoner of war and missing persons out of pay and allowances of such persons.

Clause 78.—This clause seeks to provide for the period during which a person is deemed to be a prisoner of war.

Clause 79.—This clause seeks to provide for the arrest of offenders and keeping them in Force custody. This clause also provides for arrest of an officer who is engaged in a quarrel, affray or disorder on the orders of an officer junior in rank.

Clause 80.—This clause seeks to provide that the charge against every person taken into Force custody must be investigated within forty-eight hours (excluding Sundays and other public holidays) unless investigation within that period is impracticable having regard to the public service. In case of delay the matter has to be reported to superior authorities.

Clause 81.—This clause seeks to provide that in every case where any person who is not on active duty remains in Force custody for a longer period than eight days without an Assam Rifles Court for his trial being convened, a special report should be forwarded at intervals of eight days until an Assam Rifles Court is ordered to be convened for his trial or such person is released from custody.

Clause 82.—This clause seeks to provide that the civil authorities shall aid in arrest and delivery of any person subject to the proposed legislation on receipt of any written application to that effect from Force authorities.

Clause 83.—This clause seeks to provide that the civil authorities shall, on receipt of information from the Commandant of a unit regarding a deserter, take steps for his apprehension and delivery into Force custody.

Clause 84.—This clause seeks to provide for an inquiry when any person subject to the proposed legislation is absent without leave for a period of thirty days.

Clause 85.—This clause seeks to provide for appointment of Force Police officers by Director-General or a prescribed officer for discharging certain duties specified therein.

Clause 86.—This clause seeks to provide for three kinds of Assam Rifles Courts, namely, General Assam Rifles Courts, Petty Assam Rifles Courts and Summary Assam Rifles Courts, for the trial of offences under the proposed legislation.

Clause 87.—This clause seeks to provide the power to convene a General Assam Rifles Court by Central Government, Director-General, Assam Rifles or by an officer empowered in this behalf by a warrant.

Clause 88.—This clause seeks to provide the power to convene a Petty Assam Rifles Court by authorities empowered to convene a General Assam Rifles Court and also by an officer authorised in this behalf by a warrant.

Clause 89.—This clause seeks to provide the contents of warrants issued under clauses 87 and 88, that such warrants may contain such restrictions, reservations and conditions as may be deemed fit by the officer issuing it.

Clause 90.—This clause seeks to provide the composition of a General Assam Rifles Court convened under clause 87.

Clause 91.—This clause seeks to provide the composition of a Petty Assam Rifles Court convened under clause 88.

Clause 92.—This clause seeks to provide the power to convene and composition of a Summary Assam Rifles Court.

Clause 93.—This clause seeks to provide the dissolution of an Assam Rifles Court after the commencement of a trial, in certain cases like exigencies of service, illness of Law Officer or accused making it impossible to continue the trial or when reduced below the minimum number of members prescribed under the Act and also provides for retrial of accused person when an Assam Rifles Court is dissolved under this clause.

Clause 94.—This clause seeks to provide the power of a General Assam Rifles Court to try any member of the Force for any offence and to pass any sentence authorised thereby.

Clause 95.—This clause seeks to provide the powers of Petty Assam Rifles Court to try any member of the Force except an officer and a subordinate officer and to award any sentence under this legislation except death sentence and imprisonment for a term exceeding two years.

Clause 96.—This clause seeks to provide the power of a Summary Assam Rifles Court as to trial and award of punishment.

Clause 97.—This clause seeks to provide prohibition of second trial for the same offence on the lines of the principles contained in article 20 (2) of Constitution of India.

Clause 98.—This clause seeks to provide a period of limitation for trial of all offences under the legislation. The period of limitation shall not apply to offences of desertion, mutiny and fraudulent enrolment. This clause provides as to how the period of limitation shall be tabulated. When computing the period of limitation, the period during which proceedings of investigation have been stayed by any court by injunction or order, the day on which it was issued and the day on which it was withdrawn shall be excluded. In computing the period of limitation, the period spent by any person in evading arrest shall also be excluded.

Clause 99.—This clause seeks to provide that a person who has ceased to be subject to the proposed legislation can be taken into arrest, tried and punished as if he continued to be so subject. This clause also provides for the period of limitation within which the action against a person can be taken. This period is three years from the date the person has ceased to be subject to the legislation. However, in computing this period the time during which the person avoided arrest or where the proceedings have been stayed by an injunction or order of the court, the day on which it was issued and the day on which it was withdrawn shall be excluded.

Clause 100.—This clause seeks to provide for the application of the proposed legislation during the term of sentence of imprisonment of the person convicted by an Assam Rifles Court.

Clause 101.—This clause seeks to provide for trial of an offender under the proposed legislation at any place.

Clause 102.—This clause seeks to provide for choice between criminal court and Assam Rifles Court in the case of offences where criminal court and Assam Rifles Court are having concurrent jurisdiction and in such cases the first choice will be with the Director-General, Assam Rifles.

Clause 103.—This clause seeks to provide the power of criminal court to give notice for delivery of an accused person in the case of an offence under clause 102. This clause also provides for reference to Central Government in the case of any difference of opinion by the officers of the Force.

Clause 104.—This clause seeks to provide the senior member to act as presiding officer in a General Assam Rifles Court.

Clause 105.—This clause seeks to provide that every General Assam Rifles Court shall be and Petty Assam Rifles Court may be attended by a Law Officer or an officer approved by the Chief Law Officer or a Law Officer.

Clause 106.—This clause seeks to provide the right of an accused person at a General Assam Rifles Court and Petty Assam Rifles Court to object to be tried by any member sitting in the Court on assembling of the Court and procedure to be followed when such an objection is raised.

Clause 107.—This clause seeks to provide for administration of oath or affirmation to every member of an Assam Rifles Court, Law Officer and witnesses giving evidence before it.

Clause 108.—This clause seeks to provide every decision of an Assam Rifles Court shall be passed by majority of votes and in the case of equality of votes on finding and sentence, the decision shall be in the favour of the accused. This clause also provides that concurrence of at least two-third of members shall be required in the case of a death sentence. Further provides the presiding officer shall have casting vote in matters other than challenges under clause 106, finding and sentence.

Clause 109.—This clause seeks to provide for application of the Indian Evidence Act, 1872 to all proceedings before an Assam Rifles Court.

Clause 110.—This clause seeks to confer power on the Assam Rifles Court to take judicial notice of any matter within the general knowledge of officers of the Force.

Clause 111.—This clause seeks to confer power on the convening authority, presiding officer of an Assam Rifles Court or Court of Inquiry and the Law Officer to summon a witness by issuing summons to give evidence or to produce a document or other thing. It provides that in the case of a witness subject to the proposed legislation, the summons shall be sent to his Commandant and in the case of any other witness, the summons shall be given effect through a Magistrate within whose jurisdiction the witness resides.

Clause 112.—This clause seeks to provide for exception to provisions of clause 111 with respect to operations of provision of sections 123 and 124 of the Indian Evidence Act, 1872 or to a document in the custody of postal or telegraph authorities. Further, this clause provides in the case of documents in the custody of postal or telegraph authorities, a Chief Judicial Magistrate, Chief Metropolitan Magistrate, Court of Session or High Court may direct the postal or telegraph authorities to deliver such documents for the purpose of an Assam Rifles Court.

Clause 113.—This clause seeks to provide appointment of commission for examination of witnesses, during the course of trial by any Assam Rifles Court, when the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience.

Clause 114.—This clause seeks to provide that in the case of a commission issued under clause 113, the prosecutor and the accused person may forward interrogatories in writing for examination of witness for the commission issued and may also appear before the commission for examination of such witness. Further, this clause provides for the procedure to be followed on execution of such commission.

Clause 115.—This clause seeks to provide for conviction by an Assam Rifles Court for offences not charged, in case of certain offences, for an offence of same nature but of lesser gravity.

Clause 116.—This clause seeks to provide for the presumption as to signature and the character by whom and in which it purports to have been signed, in respect of certain documents when produced before an Assam Rifles Court.

Clause 117.—This clause seeks to provide for presumption as to evidence of question and answers in an enrolment paper duly signed by an enrolling officer when produced in a proceeding under this legislation.

Clause 118.—This clause seeks to provide presumption by an Assam Rifles Court as to certain documents like a letter, return or a document respecting the service of a person, an Assam Rifles list or Gazette, a record made in any battalion book in pursuance of this legislation, any document or report under the head of a Government scientific expert, etc. This clause also provides power of an Assam Rifles Court to summon and examine a Government expert as to the subject-matter of this report.

Clause 119.—This clause seeks to provide that when the accused in the case of offence under clause 25 or clause 26, refers to a Government officer for any sufficient or reasonable excuse in his defence and it appears that such officer is likely to prove or disprove the said statement of accused, the court may address such officer and adjourn the proceedings until his reply is received and the written reply, if signed by such officer shall be received in evidence as if given on oath before the court.

Clause 120.—This clause seeks to provide for taking evidence as to the previous convictions and general character of an accused person on his conviction for purposes of awarding the punishment.

Clause 121.—This clause seeks to provide the Assam Rifles Court to record a finding as to the lunacy of the accused, when the accused person is by reason of unsoundness of mind incapable of making his defence or that he committed the act alleged due to unsoundness of mind and confirmation of such a finding. This clause also provides that the confirming authority in such cases will report the matter to Central Government for order as to detention of such accused person.

Clause 122.—This clause seeks to provide for the trial of an accused person who was found by reason of unsoundness of mind to be incapable of making his defence on his subsequent fitness on the report of a medical officer or on a certificate of the Inspector General of Prisons and in the case of an accused kept in mental asylum, by two or more visitors of that asylum that he is capable of making his defence.

Clause 123.—This clause seeks to provide that a copy of certificate under clause 122 shall forthwith be sent to the Central Government.

Clause 124.—This clause seeks to provide for the release of a lunatic accused kept in custody under clause 121 by Central Government on the certificate by any of the authorities mentioned in clause 122 that such person may be released without danger of his doing injury to himself or any other person. This clause also provides for transfer of such person to public lunatic asylum if not already sent to such asylum by Central Government.

Clause 125.—This clause seeks to provide for delivery of a lunatic accused detained under clause 121 to his relatives on the orders of Central Government.

Clause 126.—This clause seeks to provide for custody and disposal of any property in respect of which an offence appears to have been committed.

Clause 127.—This clause seeks to provide that the competent authority may order disposal of property regarding which offence is committed, on conclusion of a trial before any Assam Rifles Court.

Clause 128.—This clause seeks to provide that the trial by an Assam Rifles Court shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of Indian Penal Code and Assam Rifles Court shall be deemed to be a court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Clause 129.—This clause seeks to provide that the finding and sentence of General Assam Rifles Court and a Petty Assam Rifles Court shall be valid only if it is confirmed as provided in clauses 130 and 131.

Clause 130.—This clause seeks to provide that the finding of a General Assam Rifles Court may be confirmed by Central Government or by any officer empowered by warrant of Central Government.

Clause 131.—This clause seeks to provide that the finding of a Petty Assam Rifles Court to be confirmed by an officer empowered to convene a General Assam Rifles Court or by an officer empowered by a warrant of such officer.

Clause 132.—This clause seeks to provide certain restrictions, reservations and conditions in the warrants issued under clauses 130 and 131.

Clause 133.—This clause seeks to impose certain restrictions, reservations and conditions on the power of confirming authority under clause 132 to mitigate, remit or commute the sentence awarded.

Clause 134.—This clause seeks to provide confirmation of a finding and sentence in respect of an accused person subject to this legislation, who has been tried and sentenced while on board a ship, to confirm and execute as if, such person had been tried at the port of disembarkation.

Clause 135.—This clause seeks to provide for revision of a finding and sentence of an Assam Rifles Court, which requires confirmation, once on the order of confirming authority by the same Court.

Clause 136.—This clause seeks to provide that the finding and sentence of a Summary Assam Rifles Court is not required to be confirmed and will be carried out forthwith. It also provides that in the case of a finding and sentence of a Summary Assam Rifles Court, where the trial is held by an officer holding the rank of Deputy Commandant or of a rank declared under clause 96(5)(a) as a lower rank and has held such rank for less than three years, then, the sentence will not be given effect to until approved by an officer not below the rank of a Deputy Inspector-General.

Clause 137.—This clause seeks to provide that the proceeding of a Summary Assam Rifles Court shall be forwarded to an officer not below the rank of Deputy Inspector-General within whose command the trial was held and the power of the said officer to set aside or reduce the sentence on the merit of the case but not on technical grounds.

Clause 138.—This clause seeks to provide for alteration or substitution of finding or sentence awarded by an Assam Rifles Court by an authority empowered under clause 150 to commute the punishment when it is found for any reason to be invalid or cannot be supported by the evidence.

Clause 139.—This clause seeks to provide for the remedy available to any person subject to the proposed legislation against any order including finding and sentence by an Assam Rifles Court and the power of the Central Government, Director-General, Assam Rifles or the prescribed officer on receipt of any petition from such person.

Clause 140.—This clause seeks to provide for the power of Central Government, the Director-General or any prescribed officer to annul the proceedings of an Assam Rifles Court which is illegal or unjust.

Clause 141.—This clause seeks to provide that while awarding a death sentence, the Assam Rifles Court shall in its discretion direct whether the convict shall suffer death by being hanged by neck or shall suffer death by being shot to death.

Clause 142.—This clause seeks to provide the date from which the sentence of imprisonment awarded by an Assam Rifles Court commences and also provides for set off from the period of imprisonment the period spent in custody during investigation and trial in the same case.

Clause 143.—This clause seeks to provide the procedure for executing the sentence of imprisonment awarded by an Assam Rifles Court.

Clause 144.—This clause seeks to provide for keeping in Force custody or in any other fit place of an offender who has been directed to undergo sentence of imprisonment in a civil prison.

Clause 145.—This clause seeks to provide for execution of sentence of imprisonment or a portion thereof in any civil prison or other fit place in special cases.

Clause 146.—This clause provides for imposing restraint on a person subject to the proposed legislation under the sentence of imprisonment during his conveyance for his safe conduct and removal.

Clause 147.—This clause seeks to provide for communication of order setting aside or varying any sentence, in the case of a person confined in a civil prison, to prison authorities.

Clause 148.—This clause seeks to provide for execution of sentence of fine awarded by an Assam Rifles Court.

Clause 149.—This clause seeks to provide for amendment of any informality or error in the order or warrant issued in respect of any person sentenced to imprisonment under the proposed legislation.

Clause 150.—This clause seeks to provide for the power of Central Government, Director-General and an officer not below the rank of Deputy Inspector-General to pardon, mitigate, commute and grant parole to any person subject to the proposed legislation convicted by an Assam Rifles Court.

Clause 151.—This clause seeks to provide for cancellation of conditional pardon, parole and remission in certain cases.

Clause 152.—This clause seeks to confer power on Central Government, Director-General or any officer empowered to convene a General Assam Rifles Court to suspend the sentence of imprisonment awarded by an Assam Rifles Court.

Clause 153.—This clause seeks to provide for orders by competent authority in the case of a sentence mentioned in clause 152, until orders suspending the sentence is made.

Clause 154.—This clause seeks to provide for release of an offender when a sentence is suspended under clause 152.

Clause 155.—This clause seeks to provide that the period of sentence spent under suspension shall be reckoned as part of term of such sentence.

Clause 156.—This clause seeks to provide that authority specified under clause 152 may order that the offender shall undergo the un-expired portion of sentence or remit the sentence.

Clause 157.—This clause seeks to provide for reconsideration of orders of suspension of sentence in intervals of not more than four months.

Clause 158.—This clause seeks to provide that an offender, whose sentence is suspended under the proposed legislation, is sentenced for any other offence, then, the two offences shall run concurrently.

Clause 159.—This clause seeks to provide that the powers under clauses 152 and 156 shall be in addition to power of mitigation, remission and commutation.

Clause 160.—This clause seeks to provide for the effect of suspension and remission on the punishment of dismissal.

Clause 161.—This clause seeks to provide for disposal of the private or regimental property of any person subject to the proposed legislation who dies or deserts or is ascertained to be of unsound mind or while on active duty is reported to be missing.

Clause 162.—This clause seeks to empower Central Government to confer on members of the Force, the powers exercisable by other Government officers under Central Acts in regard to the prevention of any offence against such Acts or the apprehending of any person who has committed any such offence. In the case of Central Acts expressly mentioned in the clause, the powers can be conferred in respect of all offences because such offences are primarily of a Trans-frontier nature. In the case of other Central Acts, the powers can be conferred only in respect of cognizable offences. Further, this clause seeks to empower the Central Government to confer upon members of the Force powers exercisable under State Acts, by police officers holding corresponding ranks and makes it clear that such powers may be conferred on with the concurrence of the State Government concerned.

Clause 163.—This clause seeks to provide protection for acts of the members of the Force who exercise or discharge any power or duty under sub-clauses (1) and (2) of clause 162 of the proposed legislation.

Clause 164.—This clause seeks to confer powers on Central Government to issue any order published in the Official Gazette to make such provisions not inconsistent with the provisions of the proposed legislation as may appear necessary for removing any difficulty.

Clause 165.—This clause seeks to provide for the power of the Central Government to make rules for the purpose of carrying into effect the provisions of the proposed legislation.

Clause 166.—This clause seeks to provide for the power of the Central Government to make regulations for the purpose of carrying into effect the provisions of the proposed legislation.

Clause 167.—This clause seeks to provide that the rules and regulations made under the proposed legislation shall be laid before each House of Parliament.

Clause 168.—This clause seeks to provide for the repeal of the Assam Rifles Act, 1941 and saving of all acts, appointment and enrolment done under the repealed Act.

FINANCIAL MEMORANDUM

Clause 2(1)(d) read with clause 105 of the Bill empowers the Central Government to appoint Chief Law Officer and Law Officer to attend the General Assam Rifles Court and Petty Assam Rifles Court, respectively.

2. Clause 4 of the Bill provides for constitution of an Armed Force of the Union called the Assam Rifles for ensuring security of the borders of India, to carry out counter insurgency operations in the specified areas and to act in aid of civil authorities for the maintenance of law and order and the matters connected therewith.

3. Clause 5 of the Bill empowers the Central Government to appoint an officer as Director-General of the Force on whom the command and supervision of the Force shall be vested and other officers to assist the Director-General.

4. Clause 6 of the Bill provides for enrolment of persons to the Force.

5. Clause 85 of the Bill empowers the Director-General or any prescribed officer to appoint persons as Force Police for discharging the functions specified in sub-clauses (2) and (3) of the said clause.

6. The Assam Rifles was constituted in 1835 as Cachar Levy and was employed on frontier watch and ward duty to assist the civil administration in the maintenance of law and order in the tribal areas of the erstwhile composite State of Assam particularly in Lushai Hills, Mikir Hills, Naga Hills, Khasi, Jaintia and Garo Hills and also in the erstwhile North-East Frontier Agency (now Arunachal Pradesh) will be deemed to have been constituted under the proposed legislation (*vide* clause 168). All expenses incurred concerning the administration of the Force would be met from the Consolidated Fund of India. As the Force has already been constituted, no additional expenditure of a non-recurring nature is likely to be involved when the Bill is enacted and brought into force. The recurring expenditure on the administration of the Force during 2005-06, was of the order of Rs. 1124.53 crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 165 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Sub-clause (2) of this clause enumerates the matters with respect to which rules may be made under the said clause. These matters relate to, *inter alia*, the manner of reconstitution of the Force and the conditions of service of the members of the Force under sub-section (2) of section 4; the mode of enrolment and the procedure for enrolment under sub-section (1) of section 6; the authority whose previous permission in writing is required for resigning from appointment or withdrawing from all or any of the duties under section 8; rank or ranks of an officer or a subordinate officer referred to under sub-section (2) of section 11; the authority who shall give previous sanction in writing under sub-section (1) of section 13; nature of communication or publication under clause (c) of sub-section (1) of section 13; other purposes of meeting or demonstration under sub-section (2) of section 13; form of enrolment under section 31; any other purpose under clause (h) of sub-section (1) of section 57; the officer who may direct that an enrolled person who has been sentenced to dismissal or imprisonment whether combined with dismissal or not may be retained to serve in the ranks under section 60; the manner of proceedings against a person and the extent of awarding punishment under section 62; the manner of proceeding against an officer below the rank of a Deputy Commandant and of the rank of subordinate officer and of a rank of a Warrant Officer under sub-section (1) of section 64; the manner of forwarding certified true copies of the proceedings and the superior authority to whom such copies shall be forwarded under sub-section (2) of section 64; the manner of proceeding against an officer below the rank of Commandant and of any rank of subordinate officer and of a rank of Warrant Officer under sub-section (1) of section 65; the manner of proceeding against any subordinate officer or a Warrant Officer under section 66; the officer by whose order any sum is required to be paid, for the maintenance of the wife or legitimate or illegitimate child of a person subject to this Act other than an officer, under clause (i) of section 69; the officer who may direct that the whole or any part of the pay and allowances of person subject to this Act shall be withheld under section 71; the manner and the extent of remission of deductions from pay and allowances authorised by this Act and the authority by which such remission shall be made under section 75; the authorities by whom proper provision to be made out of the pay and allowances of all persons subject to this Act, being prisoners of war, for the dependants of such person under section 76; the authorities who shall make proper provision out of the pay and allowances of any person subject to this Act, who is prisoner of war or is missing under section 77; the manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody under sub-section (4) of section 80; the manner of making special report giving reasons for delay under section 81; the authority to appoint, and the manner of appointment of, a court of inquiry; the manner of administering oath or affirmation by such court of inquiry and the manner of making record under sub-section (1) of section 84; the officer who may appoint Force Police under sub-section (1) of section 85; the other officer having the discretion to decide before which court the proceeding shall be instituted under section 102; the manner of filling up the vacancy of member by another officer under sub-section (3) of section 106; the manner of administering oath or affirmation to every member of an Assam Rifles Court and to the Law Officer, or, as the case may be, the officer approved under section 105 before the commencement of the trial, under sub-section (1) of section 107; the officer by whom the letter, return or other documents purported to be signed shall be the evidence of the facts stated in such letter, return or other documents under sub-section (1) of section 118; the other matters to be further inquired and recorded under sub-section (1) of section 120; the other matters to be recorded under sub-section (3) of section 120; the manner of keeping in custody of the accused person under sub-section (4) of section 121; the officer who may take steps to have certain persons tried under section 122; the authority for issuing certificate in case of detention in any other place under clause (b) of section 122; the officer to whom the proceedings of every Sum-

mary Assam Rifles Courts shall be forwarded under section 137; the officer superior in command, to the one who confirmed the findings or sentence referred to in sub-section (2) of section 139, to whom petition may be presented under that sub-section; the officer who may annul the proceeding of any Assam Rifles Court under section 140; the other officer who shall direct that sentence shall be carried out by confinement in a civil prison under sub-section (1) of section 143; the officer who shall forward a warrant and the form of such warrant under sub-section (2) of section 143; the officer who may from time to time appoint the place for confinement under sub-section (4) of section 143; the other person by whom the warrant shall be forwarded to the officer in charge of the prison under section 147; the officer who may pardon or exercise other powers as specified under clauses (a) to (c) of section 150 and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules under clause (39) of sub-section (2) of section 165.

2. Clause 166 empowers the Director-General to make regulations for all or any of the purposes of the proposed legislation other than those specified in clause 165, subject to the approval of the Central Government.

3. The rules and regulations made by the Central Government shall be laid, as soon as may be after they are made, before each House of Parliament.

4. The matters in respect of which rules and regulations may be made are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN
Secretary-General.